

STATE OF GEORGIA  
COUNTY OF FULTON

**AN ORDINANCE TO ADOPT AND APPROVE AN ORDINANCE RELATING TO  
BUSINESS OCCUPATION, TAX & REGULATION AND PROVIDING FOR THEIR  
INCLUSION AND IDENTIFICATION IN THE FUTURE DEVELOPED CODE OF  
ORDINANCES FOR THE CITY OF SANDY SPRINGS TO BE REFERENCED IN THE  
FUTURE AS CHAPTER 11 (BUSINESS OCCUPATION, TAX AND REGULATIONS)  
AS ATTACHED HERETO AND INCORPORATED HEREIN, AND REPEALING  
CHAPTER 18, BUSINESS, CODE OF LAWS OF FULTON COUNTY, GA, PART II,  
CODE OF ORDINANCES AND RESOLUTIONS, SUBPART A, CODE OF ORDINANCES,  
APPENDIX A**

**BE IT ORDAINED** by the City Council of the City of Sandy Springs, GA while in regular session on December 1, 2005 at 12:01 a.m. as follows:

**SECTION 1.** That the Ordinance relating to Business Occupation, Tax & Regulation is hereby adopted and approved; and is attached hereto as if fully set forth herein; and,

**SECTION 2.** That this Ordinance shall be designated as Chapter 11 of the Code of Ordinances of the City of Sandy Springs, GA; and,

**SECTION 3.** This Ordinance is effective December 1, 2005; and,

**SECTION 4.** That this Ordinance shall become effective upon its adoption.

ORDAINED this the 1<sup>st</sup> day of December, 2005.

Approved:



Eva Galambos, Mayor

Attest:



Jeanette R. Marchiafava, City Clerk  
(Seal)



## **Chapter 11: Business Occupation Tax, Licenses, and Regulation**

### **Article 1: Business and Occupation Taxes.**

\*State law reference(s) Business and occupation taxes, O.C.G.A. §48-13-5 et seq.

#### *Section 1: Definitions*

Unless specifically defined elsewhere, as used in this Article, the term:

- (a) “Administrative fee” means a component of an occupation tax that approximates the reasonable cost of handing and processing the occupation tax.
- (b) Except as otherwise provided in subparagraph (i) of this paragraph, “Employee” means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual’s compensation or whose employer issues to such individual for purposes of documenting compensation a form W-2, but not a form I.R.S. 1099.
- (c) “Gross receipts”
  - (i) “Gross receipts” means total revenue of the business or practitioner for the period, including without being limited to the following:
    - (A) Total income without deduction for the cost of goods sold or expenses incurred;
    - (B) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
    - (C) Proceeds from commissions o the sale of property, goods, or services;
    - (D) Proceeds from fees charged for services rendered; and
    - (E) Proceeds from rent, interest, royalty, or dividend income.
  - (ii) Gross receipts shall not include the following:
    - (A) Sales, use, or excise taxes;
    - (B) Sales returns, allowances, and discounts;
    - (C) Interorganizational sales or transfers between or among the units of a parent subsidiary controlled group of corporations, as defined by



26 U.S.C. Section § 1563(a)(2), or between or among wholly owned partnerships or other wholly owned entities;

- (D) Payments made to a subcontractor or an independent agent for services which contributed to the gross receipts in issue;
  - (E) Governmental and foundation grants, charitable contributions or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute 80 percent or more of the organization's receipts and
  - (F) Proceeds from sales of goods or services which are delivered to or received by customers who are outside the state at the time of delivery or receipt.
- (d) "License" shall mean a permit or certificate issued by the City or the Office of the Fulton County Tax Commissioner that allows an entity to operate lawfully in the City of Sandy Springs. A license does not create any rights to operate in violation of any provision of this Code of Ordinances and it may be revoked by the Mayor and City Council at any time. This definition applies to any license issued pursuant to this Chapter.
- (e) "Location or office" shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.
- (f) "Occupation tax" means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business.
- (g) "Practitioner of professions and occupants" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.
- (h) "Regulatory fees" means payments, whether designated as license fees, permit fees, or by another name, which are required by City of Sandy Springs as an exercise of its

municipal power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the City of Sandy Springs. A regulatory fee does not include an administrative or registration fee. Regulatory fees do not include required occupation taxes for businesses and professions located in the City of Sandy Springs.

State law reference(s) - Define generally, O.C.G.A. §48-13-5

*Section 2: Business License Required.*

- (a) All persons, firms, companies, or corporations, including limited liability companies and professional corporations, now or hereafter operating a business in the City of Sandy Springs, are hereby required to register their business or office, obtain an occupation tax certificate for their business or office, and pay the amount now or hereafter fixed as taxes and fees thereon as authorized under the provisions of Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia, Annotated, as amended by Ga. L. 1993, p. 1292.
- (b) The occupation tax certificate shall serve as a business license. Additional business licenses may be required as established in this Chapter.
- (c) Stock or manufacturing companies or other companies, subsidiaries, agencies, district offices, branch offices, corporations or individuals, having either their business proper or their general branch offices located within the City of Sandy Springs, and either represented by the officers of the company, or any agent, for the purpose of soliciting patronage for the same, or for the transaction of any business pertaining thereto, shall be required to obtain a occupation tax certificate.
- (d) All entities described in subsection (a) shall register with the City of Sandy Springs. Any entities doing business in the municipal limits of the City of Sandy Springs previously registered with Fulton County, Georgia shall file a new application with the City of Sandy Springs no later than December 20, 2005. All licenses granted under this Article shall expire on December 31 of each year, commencing December 31, 2006. Licensees shall be required to make a new application in each ensuing year. Such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held.

State law reference(s) - Levy of occupation tax, O.C.G.A. § 48-13-6.

*Section 3: Fee; basis.*

- (a) Except as otherwise provided in this Article, every business and practitioner subject to this Article shall pay a tax based on the gross receipts of such business (the "occupation tax").



- (b) The gross receipts tax shall include a flat rate of \$50.00 for the first \$20,000.00 of gross revenue, and \$13.00 per employee. Gross revenues above \$20,000.00 are taxed using a fee class table based on profitability. The fee class table ranges from \$0.50 to \$2.20 per thousand dollars of gross revenue based on the SIC Code of the business.
- (c) The fees described in this section are adopted for the calendar year 2006 and shall continue in full force and effect until modified by action of the Mayor and City Council.
- (d) All businesses and occupations, other than those practitioners, listed in Section 9 of this Article shall be assessed the sum of \$75.00 as a nonrefundable administrative fee for handling and processing business occupation tax registrations, which is a component of the occupation tax for new and existing businesses and is separately identified in the registration process.

#### *Section 4: Application for Registration*

- (a) It shall be the duty of each person, firm or corporation subject to this Article, to file with the tax commissioner's office on or before March 31 of each calendar year an application for registration under this Article setting forth all activities of each business, its Standard Industrial Classification Code and/or its revenue code, its estimated gross receipts for the calendar year of the registration, computation of the amount of tax due including the administrative fee and per employee tax, a copy of the profit and loss statement, a copy of its Georgia Income Tax Return, and such other information as may be required by the Tax Commissioner's office to properly administer this Article, including the information specified in Section 6 of this Article.

For businesses or practitioners with more than one type of service or product, including businesses or practitioners listed under and subject to O.C.G.A. 48-46-46, the entire gross receipts shall be classified according to the dominant service or product based upon the information provided under subsection (a) hereof.

- (b) Each business or practitioner with a location or office situated in more than one jurisdiction, including businesses or practitioners with one or more location or office in Georgia and one or more location outside the state, the City of Sandy Springs shall allocate the gross receipts as follows for occupation tax purposes in accordance with the following:
  - (i) Where the business or practitioner can reasonably allocate the dollar amount of gross receipts of the business or practitioner to one or more of the locations or offices on the basis of product manufactured in that location or office or the sales or other services provided in that location or office, the City of Sandy Springs shall tax the gross receipts generated by the location or office within the State of Georgia; or

- (ii) Where the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the business or practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the business or practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the business or practitioner to each location or office.
- (iii) In no instance shall the sum of the portions of the total gross receipts of a business or practitioner taxed by all local governments exceed 100 percent of the total gross receipts of the business or practitioner.
- (iv) In the event of a dispute between the business or practitioner and Sandy Springs as to the allocation under this code section, the business or practitioner shall have the burden of proof as to the reasonableness of this allocation.
- (v) Upon request, businesses or practitioners with a location or office situated in more than one jurisdiction shall provide to the City of Sandy Springs the following:
  - (A) Financial information necessary to allocate the gross receipts of the business or practitioner, and
  - (B) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.
  - (C) When the City of Sandy Springs levies an occupation tax on a business or practitioner which has locations encompassed by other jurisdictions and the other jurisdictions use different criteria for taxation, the City of Sandy Springs shall not tax any greater proportion of the gross receipts than authorized by the law.
  - (D) For each business and practitioner with no location or office within the State of Georgia, but which:
    - (1) Has one or more employees or agents who exert substantial efforts within the City of Sandy Springs for the purpose of soliciting business or serving customers or clients; or
    - (2) Owns personal or real property which generates income and which is located in the City of Sandy Springs, gross receipts of such business or practitioner for purposes of this section shall include only those gross receipts reasonably attributable to sales or services in the State of Georgia. If such business or



practitioner provides to the tax commissioner proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in the State of Georgia, the business or practitioner shall be exempt from this Article.

- (c) The provisions of this section may be amended from time to time by ordinance of the Mayor and City Council for the purpose of providing for exceptions to business and occupation taxes as provided under O.C.G.A. §48-13-10(f).

State law reference(s) - Code 1981, § 4843-14, enacted by Ga. L. 1993, p. 1292, § 7; Ga. L. 1995, p. 419, § 1; Ga. L. 1999, o. 749, § 5.

*Section 5: Payment of fee; separate locations; refunds.*

- (a) Following the filing of the application as provided for in Section 4 of this Article, each business or professional practitioner subject to this code shall remit payment in full for all taxes and fees due not later than March 31 of the year in which the application is filed. Each person, firm or corporation operating under various trade names must secure a separate occupation tax certificate for each trade name issued. In addition, a separate occupation tax certificate must be secured for each business location.
- (b) Certificate applicants for trade names and for separate business locations shall pay the nonrefundable administrative fee imposed hereby, in addition to the tax imposed by Section 3 of this Article. In the event a business ceases to operate after the issuance of an occupation tax certificate, no refund of the fee or tax shall be granted.
- (c) Except as provided in subsection (b), the refund of the occupation tax levied herein is governed by O.C.G.A. § 48-5-380.

State law reference(s) - O.C.G.A. § 48-5-380.

*Section 6: Inspection of Records.*

- (a) It shall be the duty of all businesses subject to the tax and administrative fee imposed by Section 3 of this Article with the exception of those businesses and practitioners electing to proceed under Section 9 of this Article, to maintain and to provide as a part of their business occupation tax registration such records as will establish gross receipts as herein defined, including but not limited to, profit and loss statements prepared on a calendar year basis, and method of allocation of revenue for businesses and practitioners maintaining locations in other counties and municipalities, if applicable. Such businesses and practitioners shall also make available for inspection by representatives of the Tax Commissioner's office all reports submitted to the sales

tax unit of the Georgia Department of Revenue showing sales taking place in Georgia and other tax returns showing gross receipts.

- (b) Lending institutions and any other organization engaged in the lending of money at interest and/or for a fee or commission and otherwise subject to the requirements of this Article shall provide, for each lending transaction, a loan term sheet or other summary showing the amount of such loan, the interest rate thereon, and total fees, interest and/or commissions to be charged on such loan, assuming payment in the normal course of business.

*Section 7: Termination of Business.*

It shall be the duty of each business and practitioner subject to fees and occupation taxes under this Article when it shall cease to do business or practice to return its current occupation tax certificate, together with a statement as to the date of termination of doing business or practice to the Tax Commissioner of Fulton County and the City Manager.

*Section 8: Commencement of business after January 1*

Businesses and practitioners which do not commence operation by January 1, of any year, shall pay the amount of administrative fees and occupation taxes set forth in this Article based on anticipated revenue for the balance of the calendar year as provided in Section 4 of this Article. Such payments shall be due and payable 30 days following the commencement of the business.

State law reference(s) -Proration of fee authorized, O.C.G.A. § 48-13-22.

*Section 9: Professional occupation tax.*

Notwithstanding any other provision of this Article there is hereby imposed upon practitioners of law, medicine, osteopathy, chiropractic, podiatry dentistry, optometry, applied psychology, veterinary, landscape architecture, land surveying, massage therapy and physiotherapy, public accounting, embalming, funeral directing, civil mechanical, hydraulic and electrical engineering, architecture, marriage and family therapists, social workers, and professional counselors, as their entire occupation tax one of the following, at the practitioner's election:



- (a) The occupation tax resulting from application of the other provisions of this Article;  
or
- (b) \$400.00 for the year 2005 and subsequent years, but a practitioner paying according to this shall not be required to provide information relating to the gross receipts of such practitioner. For the purposes of this section, a “practitioner” shall include any individual holding license to practice any of the professions specified herein regardless of whether such individual shall practice as a professional corporation or professional association.

*Section 10: Transfer, suspension, revocation.*

- (a) Transfer. No certificate issued hereunder may be transferred. Any new business or practitioner shall apply and register for a new certificate within 30 days after the commencement of business.
- (b) Revocation.
  - (i) Each certificate granted hereunder shall be subject to suspension or revocation for violation of any current or future rule or regulation of this Code, the Code of Ordinances for Fulton County, or state or federal law.
  - (ii) Notice
    - (A) Whenever, in the opinion of the City of Sandy Springs, there is cause to suspend or revoke this certificate, a written notice of intention to suspend or revoke the certificate shall be furnished to the holder thereof. A hearing will be scheduled wherein the certificate holder may present his/her case before the Mayor and City Council or such board as the Mayor and City Council may designate.
    - (B) After the hearing the Mayor and City Council or its designate may suspend or revoke this certificate if the grounds set forth below in subsection (C) exist or in the Mayor and City Council’s discretion if the establishment is a threat or nuisance to public health, safety or welfare.
    - (C) The decision to suspend or revoke a certificate issued under this Article shall be solely within the discretion of the Mayor and City Council or such board as the Mayor and City Council may designate. An occupation tax certificate may be suspended or revoked upon one or more of the following grounds, but is not limited to:
      - (1) The certificate holder is guilty of fraud in the business or occupation he/she practices, or fraud or deceit in being licensed to practice in that area;

- (2) The certificate holder is engages in his/her business or occupation under a false or assumed name, or is impersonating another practitioner of a like or different name;
- (3) The certificate holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate such person to the extent that he/she is unable to perform his or her duties;
- (4) The certificate holder is guilty of fraudulent, false, misleading, or deceptive advertising or practices;
- (5) The certificate holder has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in Title 16, Chapter 6 of the Official Code of Georgia Annotated, or to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, for a period of 5 years immediately prior to the filing of the application. If after having been granted a certificate, the applicant is found not to be of good moral character, or pleads guilty or enters a plea of nolo contendere to any of the above offenses, said certificate shall be subject to suspension and/or revocation;
- (6) The application contains materially false information, or the applicant has deliberately sought to falsify information contained therein; or
- (7) any other violation of this Ordinance.

*Section 11: Payment; penalty for late payment; issuance of executions against delinquent taxpayers*

- (a) Any occupation tax with its associated administrative fees hereunder, shall be due and payable by March 31 of each calendar year. If the business or practice was not in operation on January 1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business pursuant to Section 8 of this Article. The City shall assess a penalty in the amount of 10 percent of the amount owed for each calendar year or portion thereof for:
  - (i) Failure to pay occupation taxes and administrative fees when due;



- (ii) Failure to file an application by March 31 of any calendar year, when the business or practitioner was in operation the preceding calendar year, and/or
  - (iii) Failure to register and obtain an occupation tax certificate within 30 days of the commencement of business.
- (b) Delinquent taxes and fees are subject to interest at a rate of 1.5 percent per month. Payments required by the Article herein may be collected in any suit at law or in equity, or the City may cause executions to issue against the person, firm or corporation liable for the payment. Executions shall be levied and sold together with all costs thereof, by the City, or City's designee, as ex-officio sheriff of the county. In addition, any person whose duty it is to register any business or practice and obtain any occupation tax certificate and fails to do so, or who fails to pay the occupation tax or administrative fee required by this Article, or who makes any deliberate or substantial and material false statement on an application or provides materially false information in support of an application, shall be denied an occupation tax certificate, shall be required to surrender any existing such occupation tax certificate and be deemed to have no such occupation tax certificate for purposes hereof, and shall be subject to a civil fine according to the maximum amount allowable under state law.
- (c) No business and/or practitioner subject to this Article shall collect any gross receipts as defined herein unless such business and/or practitioner shall have applied for a business tax certificate and/or license as required hereunder. Upon application for a business tax certificate, any such business and/or practitioner may thereupon collect gross receipts, including those incurred but not collected during the period prior to the application, but such business and/or practitioner shall be subject to the penalties of subsection (a) of this section. If the taxes and fees remain unpaid after the due date, the business and/or practitioner shall not collect any gross receipts as defined herein. The provisions of this subsection (c) may be enforced by appropriate injunctive or other relief upon the application of the City to the Superior Court of Fulton County.
- (d) Practitioners of law may collect gross receipts as defined herein without applying for and obtaining a business tax certificate. However, practitioners of law must pay the occupation tax levied herein. Delinquent taxes and fees are subject to interest at a rate of 1.5 percent per month. Any occupation tax with its associated administrative fees hereunder, shall be due and payable by March 31 of each calendar year. If the business or practice was not in operation on January 1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business pursuant to Section 8. The City shall assess a penalty in the amount of 10 percent of the amount owed for each calendar year or portion thereof for failure to pay the occupation tax required by the Article herein may be collected in any suit at law or in equity, or the City may cause executions to issue against the person, firm or corporation liable for the payment. Executions shall be levied and sold together with all costs thereof, by the City or its designee, as ex-officio sheriff of the county. In addition, failure to pay the occupation tax required by

this Article shall subject the person, firm, or corporation to a civil fine of \$500.00 as provided by law of this state.

State law reference(s) - Time for payment of occupation tax, O.C.G.A. § 48-13-20; penalty for late payment, O.C.G.A. § 48-13-21; issuance of executions against delinquent taxpayers, O.C.G.A. § 48-13-26; *Sexton v. Johnson*, 267 Ga.571 (1997).

*Section 12: Effective Date.*

- (a) This Article shall become effective December 1, 2005.
- (b) Annual registration and payment shall be conducted in accordance with the terms of this Article.

*Section 13: Proration of fee.*

When any person or business commences business on or after July 1 in any year, the occupation tax authorized hereby shall be levied at the customary rate on the gross receipts of the business or practitioner from the commencement of the business, but the attendant administrative fee shall not be reduced.

State law reference(s) - Proration of fee authorized, O.C.G.A. § 48-13-22.

*Section 14: Repealer, exceptions*

All ordinances providing for occupation taxes and administrative fees in conflict with this Article are hereby repealed, provided, however, that nothing herein shall affect with any ordinance providing for regulation of taxicabs or shall affect any resolution providing for the regulation of the sale of any forth of alcoholic beverages and taxes imposed thereon, or any mixed drink tax or any hotel-motel tax, such taxes being due an payable in addition to the taxes and fees imposed hereby.

*Section 15: Intent of Article.*

It is the intent of the Article to impose the taxes set forth in this Article upon all businesses and practitioners operating in the City of Sandy Springs consistent with the requirements of the Constitution and laws of the State of Georgia. In the event that the fees imposed hereby shall not be authorized on any business and practitioner or taxes and fees shall be in excess of the maximum amount authorized by law, such taxes and fees shall be imposed only to the extent authorized by law.

*Section 16: Severance.*

The invalidity of any part of this Article shall not affect the validity of the remaining portion hereof. In the event that this Article may not be enforced against any class of business



mentioned herein, such inability to enforce the same shall not affect its validity against the other business specified herein.

*Section 17: Amendment of article.*

After January 1, 2006, this Article may be amended so as to increase the occupation tax on any business or practitioner only after the conduct of at least one public hearing pertaining thereto, but this provision shall not be applicable to the repeal of any resolution promulgated pursuant to Section 4 of this Article.

Article 2: License Fees on Insurers.

*Section 1: Intent*

The Mayor and City Council hereby expresses its intent to impose license fees on insurers conducting business in the City of Sandy Springs, to impose a gross premium tax on insurers operating within the State of Georgia, to provide an effective date, and for other purposes related to this Article.

*Section 2: Definitions*

For the purposes of this Article, the following definitions apply.

- (a) “Gross Direct Premiums” shall mean gross direct premiums as used in O.C.G.A. § 33-8-4, which provides:
  - “(i) All foreign, alien, and domestic insurance companies doing business in this state shall pay a tax of 2 ¼ percent upon the gross direct premiums received by them on and after July 1, 1955. The tax shall be levied upon persons, property, or risks in Georgia, from January 1 to December 31, both inclusive, of each year without regard to business ceded to or assumed from other companies. The tax shall be imposed upon gross premiums received from direct writings without any deductions allowed for premium abatements of any kind or character or for reinsurance or for cash surrender values paid, or for losses or expenses of any kind; provided, however, deductions shall be allowed for premiums returned on change of rate or canceled policies; provided, further, that deductions may be permitted for return premiums or assessments, including all policy dividends, refunds, or other similar returns paid or credited to policyholders and not reapplied as premium for additional or extended life insurance. The term ‘gross direct premiums’ shall not include annuity considerations.

- (ii) For purposes of this Chapter, annuity considerations received by nonprofit corporations licensed to do business in this state issuing annuities to fund retirement benefits for teachers and staff personnel of private secondary schools and colleges and universities shall not be considered gross direct premium.”
- (b) “Insurer” means a company which is authorized to transact business in any classes of insurance designated in O.C.G.A. § 33-3-5.

### *Section 3: Insurers License Fees*

There is hereby levied for the year 2006 and for each year thereafter an annual license fee upon each insurer doing business within the City of Sandy Springs, in the amount of \$150.00. For each separate business location in excess of one not covered by Section 4 of this Article, which is operating on behalf of such insurers within the City of Sandy Springs, there is hereby levied a license fee in the amount of \$150.00.

### *Section 4: License Fees for Insurers Insuring Certain Risks at Additional Business Locations.*

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee of \$150.00 per location for the year 2006 and for each year thereafter.

### *Section 5: Gross Premiums Tax Imposed on Life Insurers.*

- (a) There is hereby levied for the year 2006 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to 1 percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1.
- (b) The premium tax levied by this section is in addition to the license fees imposed by Section 3 of this Article.

### *Section 6: Gross Premiums Tax, All Other Insurers.*

- (a) There is hereby levied for the year 2006 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. § 33-3-5, doing business within the State of Georgia in an amount equal to 2.5 percent of the



gross direct premium received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2.

- (b) The premium tax levied by this section is in addition to the license fees imposed by Section 3 of this Article.

*Section 7: Due Date for License Fees.*

License Fees imposed by Sections 3 and 4 of this Article shall be due and payable in accordance with Sections 11, 12, and 13 of Article 1 of this Chapter.

*Section 8: Administrative Proceedings.*

The City Clerk is hereby directed to forward a duly certified copy of this Article to the Insurance Commissioner of the State of Georgia within 45 days of its enactment.

*Section 9: Effective Date.*

This Article shall become effective on December 1, 2005.

*Section 10: Severability.*

In the event that any portion of this Article shall be declared or adjudged invalid or unconstitutional, it is the intention of the Mayor and City Council that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Article which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause, or phrase were not originally part of the ordinance.

Article 3: Pawn Shops, Pawn Brokers

*Section 1: Applicability of article provisions.*

Every person, whether a licensed junk dealer or pawnbroker, or any other secondhand dealer, who, exclusively or as incidental to or in connection with other business, purchases, sells or acquires in trade used or secondhand jewelry, flat silver, gold, and silver objects of every kind and description, including watches and clocks, any of which is made in whole or in part of gold, silver, platinum, or other precious metals; diamonds, emeralds, rubies, or other precious stones; pistols or guns; musical instruments, bicycles or accessories shall, for the purpose of this Article, be a secondhand dealer. Any person who shall purchase any Article of the kinds herein described from any person other than a bona fide dealer in those Articles shall, for the purpose of making the reports required herein, also be a secondhand dealer and subject to all the provisions of this Article relating to those records and reports.

## *Section 2: Recordkeeping.*

- (a) *Contents of record book.* All secondhand dealers shall keep a book wherein shall be entered an accurate description of all property of the kinds specified in Section 1 of this Article which they acquire by purchase of trade, and the name, address, estimated age, weight, and height of the person from whom purchased or acquired and the date and hour of the purchase. These entries shall be made as soon as possible after the transaction is had, in no case more than 1 hour thereafter.
- (b) *Inspection.* This record shall at all times be subject to inspection and examination by the Police Department.

## *Section 3: Entries in Record Book to be Numbered Serially; Property to be Tagged with Corresponding Number.*

Every entry required to be made in the secondhand dealer's book required by Section 2 of this Article shall be numbered serially, and the property described in the entry shall have attached to it a tag bearing the same serial number.

## *Section 4: Acquiring Articles With Serial Number Mutilated or Altered.*

It shall be unlawful for any secondhand dealer to purchase or acquire in trade any watch, clock, pistol, gun, automobile tire, or battery, or any other Article commonly branded with a serial number, upon which the number has been mutilated or altered.

## *Section 5: Daily Reports to Police; Form and Contents.*

Every secondhand dealer identified in Section 1 of this Article shall make a daily report in writing to the Chief of Police in such form as may be prescribed by him, of all property purchased or acquired by him during the 24 hours ending at 12:00 midnight on the date of the report.

## *Section 6: Examination and Inspection of Articles by Police; Segregation of Suspicious Articles.*

All property purchased or acquired by a secondhand dealer shall at all times be subject to examination and inspection by the Police Department. If, upon the inspection, a police officer shall have reasonable cause to believe that any of the property is stolen, he shall segregate it. It shall thereafter be unlawful for the person in possession of the property to dispose of it, or in any manner mutilate, melt, or disfigure it, until 15 days have elapsed from the date of the inspection.

## *Section 7: Property Not to be Disposed of for 15 Days After Acquisition.*

All property purchased or acquired by a secondhand dealer shall be held for not less than 15 days.



### *Section 8: Dealing with Minors.*

It shall be unlawful for any secondhand dealer to buy or receive any property of the kinds described in Section 1 of this Article from any person under the age of 18 years, provided that any secondhand dealer taking from the seller a statement in writing that the seller is of age will not be held subject to the provisions of this section, if the appearance of the seller is such as to make it uncertain that he is not 18 years of age.

## Article 4: Financial Institutions.

### *Section 1: Definitions.*

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) “*Bank*” means any financial institution chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a corporate structure authorizing the issuance of capital stock.
- (b) “*Depository Financial Institution*” means a bank or a savings and loan association. Gross receipts shall mean gross receipts as defined in O.C.G.A. § 48-6-93.
- (c) “*Savings and Loan Association*” means any financial institution, other than a credit union, chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a mutual corporate form.

Cross references: Definitions generally, § 1-2.

### *Section 2: Tax levied; Rate.*

In accordance with O.C.G.A. § 48-6-93, there is hereby levied for the year 2005 and for each year thereafter an annual business license tax upon all depository financial institutions located within the City of Sandy Springs at a rate of 0.25 percent of the gross receipts of said depository financial institutions.

### *Section 3. Minimum Business License Tax.*

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-93(a) shall be \$1,000.00.

#### *Section 4: Filing of Return.*

Pursuant to O.C.G.A. § 48-6-93(a), each depository financial institution subject to the tax levied by this Article shall file a return of the gross receipts with the Tax Commissioner, business license division of Fulton County on or before March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and the form prescribed by the commissioner of the department of revenue, based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The return shall provide the information necessary to determine the portion of the taxpayer's Georgia gross receipts to be allocated to each taxing jurisdiction in which such institution has an office. The Tax Commissioner of Fulton County shall assess and collect the tax levied pursuant to this Article based upon the information provided in said return.

#### *Section 5: Due Date of Taxes.*

Taxes levied pursuant to this Article shall be paid to the Tax Commissioner at the time of filing the return.

#### *Section 6: Administrative Provisions.*

The Tax Commissioner of Fulton County is hereby authorized and directed to forward a copy of this Article to each depository financial institution located in the City of Sandy Springs and to the home office of each such depository financial institution that does business in the City if located outside the county.

#### *Section 7: Relation of Tax to Other Business Licenses.*

The tax imposed by this Article shall be in lieu of any other business license upon depository financial institutions.

#### Article 5: Door to Door Salesmen.

##### *Section 1: Definitions.*

For the purpose of this Chapter, the following words as used herein shall be considered to have the meaning herein ascribed thereto:

- (a) "Soliciting" shall mean and include any one or more of the following activities:
  - (i) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or
  - (ii) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or



- (iii) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.
- (b) “*Residence*” shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
- (c) “*Licensed solicitor*” shall mean and include any person who has obtained a valid permit as hereinafter provided, which permit is in the possession of the solicitor on his or her person while engaged in soliciting.

*Section 2: Permit Required.*

- (a) It shall be unlawful for any person, firm or corporation to engage in the business of soliciting, calling on residences door-to-door without first having obtained a permit in accordance with the provisions contained in this chapter.
- (b) The requirement of Subsection (a) above is meant to apply to door-to-door solicitations for commercial transactions for profit only.
  - (i) It is not meant to regulate solicitation for charitable, political, or other nonprofit purposes provided that all sales proceeds are the property of and used by the nonprofit organization.
  - (ii) It does not apply to officers or employees of the city, county, state, or federal government, or any subdivision thereof, when on official business.
- (c) Each person shall at all times while soliciting in the City of Sandy Springs carry upon his or her person the permit so issued and the same shall be exhibited by such solicitor whenever he is requested to do so by any police officer or by any person solicited.
- (d) Each permit issued shall contain the name of the solicitor, the name and address of the person, firm or corporation or association whom the solicitor is employed by or represents, a photograph of the solicitor, and physical description. Such photograph shall be provided by the solicitor and shall be at least 2 inches by 2 inches in size.
- (e) The permit shall state the expiration date thereof. In no event shall a permit be valid for more than 6 months.

*Section 3: Permit Applications.*

- (a) Application for a permit shall be made upon a form provided by the City. The City Manager shall have applications available on request. The applicant shall truthfully state in full the information requested on the application, to wit:

- (i) Name and address of present place of residence and length of residence at such address; also business address if other than present address;
- (ii) Address of place of residence during the past 3 years if other than present address;
- (iii) Age of applicant;
- (iv) Physical description of the applicant;
- (v) Name and address of the person, firm, or corporation or association whom the applicant is employed by or represents; and the length of time of such employment or representation;
- (vi) Name and address of employer during the past 3 years if other than the present employer;
- (vii) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;
- (viii) Period of time for which the certificate is applied;
- (ix) Proposed route, including streets to be included on each day, which applicant intends to follow;
- (x) The date, or approximate date, of the latest previous application for permit under this chapter, if any;
- (xi) Whether the applicant has ever been convicted of a felony, a crime of moral turpitude, or any other violation of any state or federal law;
- (xii) Names of magazines, books, or journals to be sold;
- (xiii) Names of the three (3) most recent communities where the applicant has solicited house to house;
- (xiv) Proposed method of operation;
- (xv) Description and license plate number of vehicle(s) intended to be operated by applicant;
- (xvi) Signature of applicant; and
- (xvii) Social security number of applicant.



- (b) All statements made by the applicant upon the application or in connection therewith shall be under oath.
- (c) The applicant shall submit to fingerprinting by the City Police Department in connection with the application for the permit.
- (d) The City Manager shall cause to be kept in his office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all permits issued under the provisions of this chapter, and of the denial of applications. Applications for permits shall be numbered in consecutive order as filed, and every permit issued shall be identified with the duplicate number of the application upon which it was issued.
- (e) No permit shall be issued to any person who has been convicted of a felony or crime of moral turpitude within 5 years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this chapter; nor to any person whose permit issued hereunder has previously been revoked as herein provided.
- (f) The fee for a permit shall be \$75.00 for a 6-month period for each solicitor.

#### *Section 4: Permit Revocation*

- (a) Any permit issued hereunder shall be revoked by the City Manager if the holder of the permit is convicted of a violation of any of the provisions of this chapter or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter.
- (b) Immediately upon such revocation, written notice thereof shall be given to the holder of the permit in person or by certified United States mail addressed to his or her residence address set forth in the application.
- (c) Immediately upon the giving of such notice the permit shall become null and void and must be turned-in to the City Manager's office.

#### *Section 5: Routes.*

To the extent practical, each solicitor shall identify the streets and routes which he will follow on each day he is engaged in the business of soliciting. If changes in routes are made, then such changes must be immediately reported to the City Manager's office.

#### *Section 6: Prohibitions*

- (a) Any licensed solicitor who shall be guilty of any fraud, cheating, or misrepresentation, whether himself or through an employee, while acting as a solicitor in the City, shall be deemed guilty of a violation of this chapter.

- (b) It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined if the occupant of said residence has made it clear, by written sign or otherwise, that solicitors are not invited.
- (c) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.
- (d) Times Allowed.
  - (i) It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether licensed under this chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 10:00 a.m. or after 6:30 p.m., Eastern Standard Time, or before 10:00 a.m. or after 7:00 p.m. Eastern Daylight Saving Time, Monday through Saturday, or at any time on Sunday, or on a state or national holiday.
  - (ii) Solicitations for political purposes shall not occur prior to 10:00 a.m. or after 7:00 p.m., Eastern Standard Time, or before 10:00 a.m. or after 7:00 p.m. Eastern Daylight Saving Time.

#### *Section 7: Penalties.*

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not less than \$25.00 nor more than \$200.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

#### Article 6: Adult Entertainment.

##### *Section 1: Rules for Operation.*

Any person, firm, partnership, or corporation licensed hereunder shall comply with the following rules and regulations pertaining to the operation of the adult entertainment establishment:



- (a) No licensee shall operate between the hours of 4:00 a.m. and 9:00 a.m.
- (b) No person under the age of 18 shall be permitted on the premises.
- (c) No patron shall be permitted to fondle or caress any performers, nor shall any performer be permitted to fondle or caress a patron.
- (d) No tips for performers shall be placed on the person of the performer except by hand to hand.
- (e) All performers of adult entertainment shall be restricted to fixed stages, and no patron shall be permitted on such stages. Fixed stage shall be defined as a raised floor area designed exclusively for use by performers.
- (f) The license shall be displayed in a prominent place on the premises at all times.
- (g) No licensee shall permit any alcoholic beverages to be served, offered, or consumed on the premises.

Violations of these rules and regulations may result in the revocation of the license.

State law references: Sexual acts in establishments that serve alcohol, O.C.G.A. § 3-3-40 et seq.

*Section 2: Employee Eligibility Requirements; Fingerprinting; Letter of Clearance.*

- (a) No person may be employed by an establishment holding a license hereunder until such person has been fingerprinted by the Police Department and has been issued a letter of clearance by the Police Department indicating the person has not violated any law defined by this Article. A letter of compliance shall be issued by the Police Department indicating the person is eligible for such employment. This section shall apply to performers, entertainers, and musicians engaged in temporary work as well as regular employees.
- (b) All persons subject to the provisions of this section shall, within 48 hours after the date of their first work in an adult entertainment establishment, report to the Police Department for purposes of being fingerprinted.
- (c) The Police Department shall have a complete and exhaustive search made relative to any police record of the person fingerprinted. In the event there is a violation of laws as defined in Section 5 of this Article, the Police Department shall issue a letter to the person fingerprinted stating that the person is ineligible for employment.

- (d) Any letter of eligibility for employment issued hereunder shall expire 12 months from the date of issue. The Board of Commissioners may prescribe reasonable fees for certifying the eligibility of employment.

### *Section 3: License Required.*

Any person, firm, partnership, or corporation which owns or operates an adult entertainment establishment as defined in Section 3.3 of the Zoning Resolution of Fulton County shall be required to obtain from the business license division a license for adult entertainment establishments. No person, firm, partnership, or corporation shall be permitted to operate an adult entertainment establishment unless and until such a license is obtained.

Section 3.3 of the Zoning Resolution of Fulton County describes adult entertainment as permitting, performing, or engaging in live acts:

- (1) of touching, caressing, or fondling of the breasts, buttocks, and anus, vulva, or genitals
- (2) of displaying of any portion of the areola of the female breast, or any portion of the male or female pubic hair, cleft of the buttocks, anus, vulva, or genitals
- (3) of displaying of pubic hair, anus, vulva, or genitals
- (4) or acts which simulate sexual intercourse (homosexual or heterosexual), masturbation, sodomy, bestiality, oral copulation, flagellation.

### *Section 4: Applicant Requirements.*

To obtain an adult entertainment license, the applicant must:

- (a) Complete the application. Any untrue or misleading information contained in or material omission left out of an application for a license hereunder shall be cause for the denial thereof, and, if any license has been granted under these circumstances, the same shall be cause for revocation.
- (b) Provide copies of approved conditions of zoning pertaining to the property to be licensed, provide an as-built survey depicting the location of the structure which will operate as the adult entertainment establishment, and pay the applicable license fee. Prior to the issuance of such license, the as-built survey shall be submitted to the Department of Public Works for a determination as to whether the proposed site meets the standards set forth in the conditions of zoning.
- (c) Furnish a complete set of fingerprints which shall be forwarded to the Georgia Bureau of Investigation who shall search the files of the Georgia Crime Information Center for a period of 2 years immediately preceding the date of such application for any instance of criminal activity. The Georgia Bureau of Investigation shall also submit such fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records. The federal



record, if any, shall be obtained and returned to the governing authority submitting such fingerprints.

*Section 5: Disqualifications of Applicant.*

No person, partner, firm, or corporation shall be granted a license if the person or officers of any such partnership or corporation, as owners, have been convicted or have pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, lottery, or illegal possession or sale of narcotics or alcoholic beverages, or possession or receiving of stolen property within a period of 5 years immediately prior to the filing of the application. Should any such person, partner, or officer of a corporation, as owner, after a license has been granted, be convicted or plead guilty or nolo contendere to a crime involving moral turpitude, or the violation of any of the laws regulating the sale of narcotics, alcoholic beverages, or the lottery laws of this state, or possession or receiving of stolen property, said license shall be subject to suspension and revocation. If the applicant for the license meets the requirements set forth herein, a license shall be granted.

*Section 6: Expiration; Change of Ownership of Establishment.*

All licenses granted hereunder shall expire on December 31 of each year. Each subsequent application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. A change of ownership shall require a new license.

*Section 7: Fee.*

The fee for the adult entertainment license shall be established by the Mayor and City Council.

*Section 8: Compliance with Applicable Laws by Licensee.*

Any person, firm, partnership, or corporation who holds an adult entertainment license must display the occupation tax certificate issued hereunder in a conspicuous location. Failure to display the occupation tax certificate in a conspicuous location may result in a fine of \$50.00.

## Article 7: Massage Establishments and Spas.

### *Section 1: Definitions*

For the purpose of this article, the term:

- (a) "*Massage apparatus*" shall mean any manual, mechanical, hydraulic, hydrokinetic, electric, or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power, which is utilized by a "massage therapist" for the purpose of administering a "massage".
- (b) "*Massage establishment*" shall mean any business established for profit which employs or contracts with one or more "massage therapists" or operates or maintains for profit one or more "massage apparatus", and which for good or valuable consideration, offers to the public facilities and personnel for the administration of "massages". This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.
- (c) "*Massage*" or "*massage therapy*" shall mean the manipulation and/or treatment of soft tissues of the body, including but not limited to the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, and any other soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of oils, lotions, creams, salt glows, hydrotherapy, heliotherapy, hot packs, and cold packs. This term shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure for which a license to practice chiropractic, physical therapy, podiatry, or medicine is required by the State of Georgia.
- (d) "*Massage therapist/practitioner/masseur/masseuse*" shall mean any person who for good or valuable consideration administers a "massage" or "massage therapy".
- (e) "*Spa establishment*" shall mean any business established for profit that provides personal services such as body wraps, hydro mineral wraps, body polish, body wash, baths and hydro tub soak.

### *Section 2: Scope of regulations*

- (a) All licenses issued under this article shall constitute a mere privilege to conduct the business so authorized during the term of the certificate or permit only and subject to all terms and conditions imposed by the county and state law.
- (b) Nothing in this article shall be construed to regulate, prevent, or restrict in any manner:
  - (1) Any physician, chiropractor, physical therapist, or similar professional licensed and regulated by or through the state while engaged in the practice of said profession.



- (2) Any hospital or other professional health care establishment separately licensed as such by the state.
- (3) Any other individual or entity expressly exempted from local legislation by the laws of the state.

*Section 3: License required; application*

(a) In addition to obtaining an occupation tax certificate as referenced in Section 1, all persons, firms or corporations desiring to engage in the business, trade or profession of a massage establishment shall, before engaging in such trade, business, profession, make application for a license in the form and manner prescribed in this article. The application shall include the information required on all license returns, along with the following additional information:

- (1) No license for a massage establishment shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
- (2) A letter certifying as to the good moral character of the applicant, signed by three currently qualified and registered city voters of good moral character. Individuals signing such letter must provide their name, address and social security number.
- (3) The applicant must hold and furnish a certified copy of a diploma or certificate of graduation from a state certified school and accredited school of massage therapy. The diploma must be representative of the fact that applicant attended a course of study of not less than 500 credit hours, consisting of a curriculum of anatomy, physical culture, physiology, basic massage theory, technique and clinical practice, approach to massage, allied modalities and disease awareness and other such subjects.
- (4) The applicant must furnish a certified statement from the National Certification Board of Therapeutic Massage and Body Work evidencing passage by the applicant thereof of the exam for massage therapists administered by said board.
- (5) If the applicant is a corporation or partnership, such corporation or partnership shall submit the foregoing information and exhibits with regard to each employee, independent contractor agent and partner, general or limited associated with the operation of the massage therapy establishment.
- (6) If the applicant is a corporation, such corporation shall, in addition to the foregoing information, submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations, and provide the name and address for its registered agent in the county.
- (7) If the applicant is a corporation, such corporation must be chartered under the laws of the state or authorized by the secretary of state to do business in Georgia.
- (8) If the applicant is an individual, the applicant must submit a copy of a valid driver license or a valid I.D. card as reliable proof thereof. Additionally, if the applicant does not reside in the city, the applicant must provide the name and

address for an agent who resides in the city authorized to receive legal process and notices under this article on behalf of the applicant.

(b) In addition to obtaining an occupation tax certificate as referenced in Section 1, all persons, firms or corporations desiring to engage in the business, trade or profession of a spa establishment shall, before engaging in such trade, business, profession, make application for a license in the form and manner prescribed in this article. The application shall include the information required on all license returns, along with the following additional information:

- (1) No license for a spa establishment shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
- (2) If the applicant is a corporation or partnership, such corporation or partnership shall submit the foregoing information and exhibits with regard to each employee, independent contractor agent and partner, general or limited associated with the operation of the massage therapy establishment.
- (3) If the applicant is a corporation, such corporation shall, in addition to the foregoing information, submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations, and provide the name and address for its registered agent in the city.
- (4) If the applicant is a corporation, such corporation must be chartered under the laws of the state or authorized by the secretary of state to do business in Georgia.
- (5) If the applicant is an individual, the applicant must submit a copy of a valid driver license or a valid I.D. card as reliable proof thereof. Additionally, if the applicant does not reside in the city, the applicant must provide the name and address for an agent who resides in the city authorized to receive legal process and notices under this article on behalf of the applicant.

(c) No person, firm or corporation or its officers shall be granted a license for a massage or spa establishment unless it shall appear to the satisfaction of the city manager or his designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or plead guilty or entered a plea of *nolo contendere* under any federal, state or local law of any crime involving illegal gambling, any felony, criminal trespass, public indecency, disorderly conduct, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of the ten years prior to the date of application for such certificate and has been released from parole or probation. No person, partner or officer under the age of 18 shall be granted a license for massage establishment or spa.

#### *Section 4: Regulatory fee; expiration*

(a) There shall be an annual regulatory fee for each massage and spa establishment licensed within the city of Sandy Springs in the amount of \$60.00. The regulatory fee shall be paid with the license application.



(b) All licenses granted hereunder shall expire on December 31 of each year. Each subsequent application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held.

(c) All licenses granted hereunder shall be for the calendar year and the full regulatory fee must be paid for a license application filed prior to July 1 of the license year. One-half of a full regulatory fee shall be paid for a license application filed after July 1 of the license year.

(d) Any person applying hereunder who shall pay the required fee, or any portion thereof, after January 1, shall, in addition to said annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

#### *Section 5: Work permits required*

Prior to the issuance of a license the on premise owner(s), manager(s) and employee(s) desiring to engage in the business, trade or profession of massage therapy shall be required to obtain a work permit.

#### *Section 6: General operating provisions*

(a) It shall be the duty of all persons holding a license under this article to file the name of all employees, their home address, home telephone number and place of employment. The holder of a license issued under the provisions of this article must additionally report changes in the list of employees with the names and require supplement information for new employees to be filed with the city manager or his designee within ten days from the date of such change.

(b) It shall be the duty of any person granted a license under this article to maintain correct and accurate records of the name and address of the persons receiving treatment at such establishment; the type of treatment administered; and the name of the person at the establishment administering the treatment. The records shall be subject to inspection at any time by the city manager, or his designee, or the chief of police or his designee.

(c) The establishment shall have an owner, manager, or supervisor on premise at all hours the establishment offers massage therapy. If during an inspection there is no owner, manager, or supervisor on premise the establishment must cease operations and close to the public until an owner, manager or supervisor is on premise.

(d) Records required to be maintained under this article shall be kept for a minimum of two years beyond the expiration date of a license. Records shall be made available to the city manager, during business hours, at the certificate holder's business location in the city, within ten business days of any such request.

(e) The establishment shall be subject to inspection at any time during business hours by the city manager or his designee and by the chief of police or his designee, to ensure compliance with this article.

(f) All employees, massage therapist and other persons on the premises, with the exception of the customers, shall be completely clothed at all times when administering a massage. For the purposes of this article "completely clothed" shall mean having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this article shall be entirely non-transparent.

(g) No business of a massage therapist shall be engaged in and no place of business shall be open for business except within and between the hours of 7:00 a.m. and 10:00 p.m.

(h) A readable sign shall be posted at the main entrance identifying the establishment. Signs shall comply with the sign requirements of this Code.

(i) Minimum lighting shall be provided in accordance with the Uniform Building Code, and additionally, at least one artificial light of not less than 40 watts shall be provided in each enclosed room or booth.

(j) Ordinary beds or mattresses shall not be permitted in any establishment.

(k) The establishment, prior to the issuance of the license must be in compliance with all applicable building and life safety codes, and the building to be occupied must have a valid, current certificate of occupancy.

(l) It shall be unlawful for any person under the age of 18 to patronize any massage establishment unless such person carries with him/her at the time of such patronage, a written order directing the treatment to be given by a regularly licensed physician or written permission of the underage person's parent or guardian. It shall be the duty of the holder of a license to determine the age of the person attempting to patronize a massage establishment and to prohibit such patronage by an underage person.

(m) No massage practitioner, or any of his employees, shall manipulate, fondle or handle the sexual organs or anus of any person.

#### *Section 7: Issuance of license*

(a) When a license application is submitted in proper form, including all information and exhibits required herein and accompanied by the correct fees, the application shall be accepted and a review of the application and an inspection and investigation shall be conducted by the city manager or his designee. The city manager or his designee shall transmit a copy of the completed application to the police department. Upon the payment by



the applicant of the required fees, the police department, or its designee, shall cause to be conducted a background investigation of the police record of the applicant, and shall transmit a summary of the investigation results to the licensing and revenue manager or his designee.

(b) Upon receipt of the background investigation, and completion of review of the application in accordance with the terms of this article, the city manager or his designee shall act on the application. The city manager or his designee shall deny any application that:

- (1) Fails to meet each of the application requirements specified herein.
- (2) Fails to meet each of the minimum standards specified in this Section of this Article.
- (3) Contains false information in the application or attached documents.

#### *Section 8: Grounds for revocation and suspension of license*

The license of a massage establishment or spa may be revoked or suspended upon one or more of the following grounds:

- (1) Failure of the holder to maintain initial requirements for obtaining the license.
- (2) The holder is guilty of fraud in the practice of massage, or fraud or deceit in his/her being issued the license for the practice of massage.
- (3) The holder is engaged in the practice of massage under a false or assumed name, or is impersonating another therapist of a like or different name.
- (4) The holder has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, disorderly conduct, or entered a plea of *nolo contendere* to any felony.
- (5) Any of the holder's employees, independent contractors or agents has been convicted, pled guilty, or entered a plea of *nolo contendere* to any felony, or has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, or disorderly conduct in connection with the operation of the massage establishment or on or about the premises of the massage establishment.
- (6) Failure of the holder to maintain correct and accurate records as required by this article.
- (7) Failure of the holder to actively supervise and monitor the conduct of the employees, independent contractors, agents, customers, or others on the premises in order to protect the health, safety and welfare of the general public and the customers.
- (8) The holder, his/her employees, agents, or independent contractors associated with the establishment have allowed to occur or have engaged in a violation of any part of this article.
- (9) The holder has violated any of the provisions of this article.

#### *Section 9: Hearings*

No license for a massage or spa establishment shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

(a) The city manager shall provide written notice to the applicant or license holder of his/her order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or license holder of the right to appeal under the provisions of this chapter. Any applicant or license holder who is aggrieved or adversely affected by a final action of the city manager may have a review thereof by appeal to the Mayor and City Council. Such appeal shall be by written petition filed in the office of the city manager within 15 days after the final order or action of the city manager and in order to defray administrative costs, must be accompanied by a filing fee of \$500.00. The city manager, at his/her discretion, may waive or reduce the filing fee amount if it is determined the fee would create a hardship on the individual filing such appeal. The Mayor and City Council may at the request of the appellant, refund the filing fee by a majority vote.

(b) A hearing shall be conducted on each appeal within 30 days of the date of filing with the city manager unless a continuance of such date is agreed to by the appellant and the city manager. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, then such request must be made at least three days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the Mayor and City Council shall sign an affidavit to be part of the record that he or she is not related to or personal friends with any appellant or any owner of the establishment in question in the appeal being considered and that he or she has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members of the Mayor and City Council.

(c) The findings of the Mayor and City Council shall be forwarded to the city manager within 15 days after the conclusion of the hearing, and it shall be the duty of the city manager to notify the appellant and the chief of police or his designee of the action of the Mayor and City Council.

(d) The findings of the Mayor and City Council shall not set aside unless found to be:

- (1) Contrary to law or ordinances, or
- (2) Unsupported by substantial evidence on the records as a whole, or
- (3) Unreasonable

(e) The findings of the Mayor and City Council shall be final unless appealed within 30 days of the date of such finding by certiorari to the superior court of the county. An aggrieved party shall have all other remedies provided by law or at equity to all ordinances.

#### *Section 10: Severability*



(a) Should any section or provision of this article be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the article as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional.

(b) Should any section or provision of this article be in conflict with any other ordinance, rule regulation, provision, requirement or law then the more restrictive ordinance, rule, regulation, provision, requirement or law shall control.

(c) All ordinances or resolutions, or parts thereof, in conflict with this article are repealed.

#### Article 8: Escort Services.

##### *Section 1: Compliance.*

No person shall conduct the business of an escort and/or dating service in the City without first meeting the requirements of this Article.

##### *Section 2: Copy of Article provided upon request.*

Upon request, the City Manager shall provide each applicant hereunder with a copy of this Article.

##### *Section 3: Information concerning employees to be filed with the City Manager; background investigation required.*

- (a) All licensees under this Article must file with the City Manager their home address, home telephone number, and place of employment. Changes thereto shall be filed with the Tax Commissioner within 10 days from the date the change becomes effective.
- (b) All employees of the licensee must submit to a background investigation not less than 15 days prior to commencing work to allow for the investigation of the employee. The City Manager shall provide the release form used to conduct the background investigation. After the release has been signed, the City Police Department shall investigate the police record of the employee.

##### *Section 4: Records of clients to be kept.*

- (a) It shall be the duty of the licensee to maintain correct and accurate records of the name and address of the persons receiving escort and/or dating services and to provide the name of the employee providing such service. Records shall be kept for a minimum of 3 years. These records shall be subject to inspection at any time by the City Manager and the Police Department.

- (b) Failure to maintain records as required in this section is a violation of this Article.

*Section 5: Application; information to be given.*

- (a) Any person desiring to engage in the business, trade or profession of providing and/or arranging dates, escorts, or partners for persons shall, before engaging in such business, trade or profession, file an application with the City Manager. This application shall be typewritten or legibly handwritten and shall contain the following as appendices:
  - (i) Name, home and business address of applicant, date of birth, social security number, and sex.
  - (ii) The applicant and employees must submit to a background investigation. The City Manager shall provide the release form used to conduct the background investigation. After the release form has been signed and witnessed, the Police Department shall investigate the police record of the employee. The release form must be signed at least 15 days prior to the issuance of a license to allow for the investigation of the applicant, and for the employee, at least 15 days prior to the commencement of work to allow for the investigation of the employee.
  - (iii) The applicant must furnish a list of at least three character witnesses by name, address, and telephone number.
  - (iv) Applicants shall furnish the name and address of any person having previously employed the applicant (in whatever position) for the last 2 years, if applicable.
  - (v) Applicants shall provide two recent identical photographs to the City Manager. The photographs must have been taken within the past 6 months and be a good likeness of the applicant. The photographs must be clear with a full front view of the applicant's face. Photographs may be in color or black and white and the size must be 2 inches by 2 inches. The photograph must be taken without headcovering unless a signed statement is submitted indicating that the headcovering is worn daily for religious or medical reasons. Dark glasses may not be worn in the photographs unless a doctor's statement is submitted supporting the wearing of dark glasses for medical reasons. The City Manager shall permanently affix one photograph to the permit.
- (b) The Police Department shall be notified within 10 days of any change of ownership and/or partners/employees.
- (c) A corporation, partnership, or other business entity being established for the purpose of engaging in the business, trade or profession of providing and/or arranging dates, escorts, or partners for persons, must also obtain a license.



*Section 6: Qualifications of Applicant.*

No occupation tax certificate shall be granted to any person under the age of 18 or who has been convicted, pled guilty or entered a plea of *nolo contendere* under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of ten years prior to the date of application for such certificate and has been released from parole or probation.

*Section 7: Fees.*

- (a) License fees are levied as follows: \$250.00 per annum for the escort and/or dating service license and \$50.00 for the background investigation fee. No license can be issued by the City Manager until applicant satisfies the qualifications listed in this Article and pays all license fees.

*Section 8: Unlawful or prohibited activities.*

No person under 18 years of age shall be employed by an escort and/or dating service in any capacity.

*Section 9: Notice of denial of license.*

The City Manager shall provide the applicant with written notice of the denial of the escort and/or dating service license. The notice of denial shall include the grounds for denial.

*Section 10: Suspension or revocation of license.*

- (a) No license issued hereunder may be transferred.
- (b) Each license granted hereunder shall be subject to suspension or revocation for violation of any rule or regulation of the City now in force or hereafter adopted.
- (c) Whenever the City Manager determines there is cause to suspend or revoke the license issued hereunder, the City Manager must give the licensee 10-day written notice of intention to suspend or revoke the license. A hearing will be scheduled wherein the licensee may present a defense to the suspension or revocation before the Mayor and City Council or such board as the Mayor and City Council may designate. The 10-day written notice must include the time, place, and purpose of such hearing, and a statement of the charges upon which such hearing shall be held. After the hearing, the Board may suspend or revoke the license issued hereunder if any of the

grounds set forth below exist. A license may be suspended or revoked upon one or more of the following grounds:

- (i) The licensee is engaged in the escort and/or dating service under a false or assumed name, or is impersonating another practitioner of a like or different name;
  - (ii) The licensee is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his or her duties;
  - (iii) The licensee is guilty of fraudulent, false, misleading, or deceptive advertising or practices;
  - (iv) The licensee has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in Title 16, Chapter 6 of the Official Code of Georgia Annotated, or to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, for a period of 5 years immediately prior to the filing of the application. If after having been granted a license, the licensee is found not to be of good moral character, or pleads guilty or enters a plea of nolo contendere to any of the above offenses, said license shall be subject to suspension and/or revocation;
  - (v) The application contains materially false information, or the applicant has deliberately sought to falsify information contained therein;
  - (vi) The applicant/licensee fails to pay all fees, taxes or other charges imposed by the provisions of this Article;
  - (vii) The licensee fails to maintain all of the general qualifications applicable to initial issuance of a license under this Article;
  - (viii) The licensee refuses to accept a client solely on the basis of race, color, national origin, religious belief, or sex. License holders shall not refuse to accept a client unless the client is obviously intoxicated or dangerous;
  - (ix) The establishment is a threat or nuisance to public health, safety or welfare; or
  - (x) Any other violation of this Article.
- (d) Process. After the City Manager makes a recommendation to the Mayor and City Council to suspend or revoke a license issued hereunder, the Mayor and City Council, or such board as they may designate, will conduct a hearing to hear evidence relevant to the alleged violation.



- (i) At the hearing, the City Manager or his designate proceeds first and presents all evidence and argument in support of the recommendation to suspend or revoke the license issued hereunder.
- (ii) The Mayor and City Council members or their designates will have the right to ask questions at any time.
- (iii) After the City Manager makes his presentation, the licensee or the licensee's legal counsel, will present evidence and argument as to why the license issued hereunder should not be suspended or revoked. The Mayor and Mayor and City Council members or their designates will have the right to ask questions at any time.
- (iv) After hearing all of the evidence and arguments of the parties, the Mayor and City Council will render a decision. The suspension or revocation of a escort/dating service license is final unless the licensee files a petition for writ of certiorari to the Superior Court of Fulton County within 30 days of the date of the decision.

*Section 11: Effective Date.*

This Article shall become effective December 1, 2005.

*Section 12: No proration of license fee.*

No license fees shall be prorated.

*Section 13: Repealer; exceptions.*

All resolutions providing for escort and/or dating service license fees in conflict with this Article are hereby repealed, provided, however, that nothing herein shall affect any resolution providing for occupational or business taxes.

*Section 14: Intent of Article; severability.*

It is the intent of the Article to regulate the operation of escort and/or dating services operating in the unincorporated area of the county consistent with the requirements of the Constitution and laws of the State of Georgia. In the event that the regulations and/or fees imposed hereby shall not be authorized in whole or in part, such regulation and/or fee shall be imposed only to the extent authorized by law. The invalidity of any part of this Article shall not affect the validity of the remaining portion hereof. In the event that this Article may not be enforced against any class of business mentioned herein, such inability to enforce the same shall not affect its validity against the other business specified herein.

## Article 9: Charitable Solicitation.

### *Section 1: Definitions.*

As used in this Article:

*Solicit* shall mean to request an immediate donation of money or other thing of value from another person including employment, business or contributions or to request the sale of goods or services.

*Public area* shall mean an area to which the public or a substantial group of persons has access, including but not limited to alleys, bridges, buildings, driveways, parking lots, parks, play grounds, plazas, sidewalks, and streets that are open to the general public.

*Charitable Organization* shall mean those entities defined and registered as provided in O.C.G.A. § 43-17 et seq.

### *Section 2: Permit Required.*

It shall be unlawful for any person, firm, organization or corporation to solicit within any public right-of-way in the City of Sandy Springs, provided, however, recognized charitable organizations as defined herein and governmental entities may solicit within the public right-of-way provided they first obtain a permit in accordance with Article 5, Sections 3 and 4 of this Chapter.

### *Section 3: Applicability.*

This chapter regulates the time, place and manner of solicitations and shall not apply to any persons exercising their clearly established constitutional right to picket, protest or engage in other constitutionally protected activity.



## Article 10: Panhandling.

### *Section 1: Definitions*

As used in this Article:

- (a) “*Solicit*” shall mean to request an immediate donation of money or other thing of value from another person, regardless of the solicitor’s purpose or intended use of the money or other thing of value, including employment, business or contributions or to request the sale of goods or services. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.
- (b) “*Public area*” shall mean an area to which the public or a substantial group of persons has access, including but not limited to alleys, bridges, buildings, driveways, parking lots, parks, play grounds, plazas, sidewalks, and streets that are open to the general public
- (c) “*Aggressive Panhandling*” shall mean and include:
  - (i) Intentionally or recklessly making any physical contact with or touching another person or his vehicle in the course of the solicitation without the person’s consent;
  - (ii) Following the person being solicited, if that conduct is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
  - (iii) Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
  - (iv) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one’s constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to Article 5, Sections 3 and 4 of this Chapter shall not constitute obstruction of pedestrian or vehicular traffic;
  - (v) Intentionally or recklessly using obscene or abusive language or gestures intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person’s possession, or words intended to, or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

- (vi) Approaching the person being solicited in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

### *Section 2: Prohibitions.*

- (a) It shall be unlawful for any person, firm, organization, or corporation to aggressively panhandle or solicit funds for the sole benefit of the solicitor within any public area in the City of Sandy Springs or:
  - (i) In any public transportation vehicle, or bus or subway station or stop;
  - (ii) Within 15 feet of any entrance or exit of any bank or check cashing business or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
  - (iii) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or
  - (iv) From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.
- (b) Unauthorized solicitation shall constitute a misdemeanor.
- (c) Aggressive panhandling shall constitute an aggravated misdemeanor.

### *Section 3: Applicability*

This chapter regulates the time, place and manner of solicitations and shall apply shall not apply to any persons from exercising their clearly established constitutional right to picket, protest or engage in other constitutionally protected activity.



## Article 11: Taxicabs.

### *Section 1: Operation of taxicab to be in compliance with article.*

No person, firm, or corporation shall operate a taxicab in the City except in accordance with the terms and provisions of this Article.

### *Section 2: Definitions.*

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) “Operator” means any person, firm, or corporation in the business of transporting passengers in taxicabs.
- (b) “Taxicab” means any passenger-carrying vehicle used in the business of transporting passengers for hire which does not have fixed termini, including but not limited to, any unmarked automobiles used in the business of transporting passengers for hire by contract or requested special services that do not have fixed termini.
- (c) “Tax Commissioner” means the Tax Commissioner of Fulton County.

### *Section 3: Operations deemed to be doing business in the City.*

A taxicab shall be deemed to be doing business in the county when its original terminus, that is to say, the place from which it operated and is subject to calls, shall be located in the City.

### *Section 4: License fees for annual operation and driver's permit.*

License fees are hereby levied as follows: \$150.00 per annum for each taxicab maintained or operated, and a fee of \$50.00 per annum for each driver's permit. The business occupation tax shall be in accordance with the current business occupation tax ordinance.

### *Section 5: Permits for operation.*

- (a) *Required.* No person, firm, or corporation shall operate a taxicab or conduct the business of operating taxicabs in the City of Sandy Springs until the person, firm, or corporation has first applied for and obtained an occupation tax certificate and permit to do so. The applications for the occupation tax certificate and license shall be made to the business tax division of the Fulton County Tax Commissioner's office upon forms provided by the business tax division for that purpose. The license for vehicles shall be issued by the business tax division. Permits for drivers will be issued by the Police Department.

- (b) *Description of business.* The application shall contain, among other things, a detailed description of the equipment to be used in the business and the name of the operators thereof, the point of original terminus of the business, and the address and telephone number of the office or call station from which the business is operated.
- (c) *Indemnity insurance.* No permit to operate taxicabs shall be issued or continued in operation unless the holder thereof shall file with the business tax division a policy of indemnity insurance in some indemnity insurance company authorized to do business in this state, which policy shall have limits equal to or in excess of the following sums for each taxicab operated:
  - (i) For bodily injury to each person, \$50,000.00;
  - (ii) For bodily injury to all persons sustained in any one accident, \$50,000.00; and
  - (iii) For property damage and liability for baggage of passengers, \$25,000.00.

The policy shall be conditioned to protect the public against injury or damage proximately caused by the negligence of the holder of such permit. Each driver shall be listed on the policy at the time of application. Additional drivers or new drivers hired after issuance of the occupation tax certificate shall be covered by a rider to the policy prior to the issuance of a driver's permit.

#### *Section 6: Certificate of inspection; posting in cab.*

A certificate of inspection issued by a licensed garage shall be posted in the taxicab at all times certifying that the taxicab and equipment therein are safe and in compliance with applicable law. This certificate must be renewed every 90 days, and the operator of any taxicab business shall be required to keep his/her taxicab and equipment therein in safe condition conforming to all laws under penalty of having his/her permit to conduct a taxicab business suspended or revoked.

#### *Section 7: Additional Equipment.*

The operator of a taxi business shall register with the business tax division of the Office of Tax Commissioner of Fulton County each additional piece of equipment put in use, and same shall be subject to inspection and registration as herein provided.

#### *Section 8: Drivers; Qualifications.*

It shall be the duty of all operators to file with the business tax division the names and addresses, age and physical description of the persons employed as drivers. All drivers shall hold licenses from the State Department of Public Safety as drivers of vehicles for hire, and drivers' permits issued by the county Police Department. No person shall be employed or shall drive a taxicab who has, within the past 5 years, been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in Title 16, Chapter 6 of the Official Code of Georgia Annotated, or to the offense of driving under the influence of drugs and/or alcohol, or to any open container violations, or to any offense involving the lottery, illegal possession



or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, violence, or the violation of a spirituous, vinous, or malt beverage statute. No driver can be issued a permit if the driver has received three or more moving violations in the preceding 12-month period.

*Section 9: Taxi Stands; Parking.*

Operators and drivers of taxicabs shall not park taxicabs in any congested area as defined by the regulations of the county commissioners at any place other than the place or places designated as "taxi stand". The parking of taxicabs shall be subject at all times to the direction of police officers should such direction be necessary or desirable for the relief of an emergency traffic condition.

*Section 10: Posting of ID of driver and number of taxicab.*

The operator is responsible for ensuring that each taxicab used in active business shall have posted in a conspicuous place, on the inside thereof, the name and photograph of the driver of the taxicab. Each taxicab used in active business shall also bear on the outside thereof a numbered decal to be furnished by the business tax division of the office of Fulton County Tax Commissioner.

*Section 11: Operators responsible for violations by drivers.*

To the extent provided by law, operators are responsible for violations of this Article by their taxicab drivers whether such drivers are direct employees or independent contractors.

*Section 12: Notice of denial of license.*

In the event that an application is denied, the Tax Commissioner shall provide the applicant with written notice of the denial of the taxicab license. The notice of denial shall include the grounds for denial.

*Section 13: Suspension or revocation of license.*

- (a) No license issued hereunder may be transferred.
- (b) Each license granted hereunder shall be subject to suspension or revocation for violation of any rule or regulation of the county now in force or hereafter adopted.
- (c) Whenever the Tax Commissioner determines there is cause to suspend or revoke the license issued hereunder, the Tax Commissioner shall give the licensee 10-day written notice of intention to suspend or revoke the license. A hearing will be scheduled wherein the licensee may present a defense to the suspension or revocation before the Board of Commissioners or such board as the Board of Commissioners may designate. The 10-day written notice shall include the time, place, and purpose of

such hearing, and a statement of the charges upon which such hearing will be held. After the hearing, the Board may suspend or revoke the license issued hereunder if any of the grounds set forth below exist. A license issued under this Article may be suspended or revoked by the Board of Commissioners or their designee and a driver's permit may be suspended or revoked by the county Police Department upon one or more of the following grounds:

- (i) The application contains materially false information, or the applicant has deliberately sought to falsify information contained therein;
  - (ii) For failure to pay all fees, taxes or other charges imposed by the provisions of this Article;
  - (iii) For failure to maintain all of the general qualifications applicable to the initial issuance of a license or permit under this Article;
  - (iv) Having four or more moving traffic violations in any 12-month period;
  - (v) Refusing to accept a client solely on the basis of race, color, national origin, religious belief, or sex. Operators and drivers shall not refuse to accept a client unless the client is obviously intoxicated or dangerous;
  - (vi) Allowing the required insurance coverage to lapse or allowing a driver to operate in the City in violation of the provisions of this Article;
  - (vii) The establishment or driver is a threat or nuisance to public health, safety or welfare; or
  - (viii) For violation of any part of this Article.
- (d) Process. After the City Manager makes a recommendation to the Mayor and City Council to suspend or revoke a license issued hereunder, the Mayor and City Council, or such board as the Mayor and City Council may designate, will conduct a hearing to hear evidence relevant to the alleged violation.
- (i) At the hearing, the City Manager or his designate proceeds first and presents all evidence and argument in support of the recommendation to suspend or revoke the license issued hereunder.
  - (ii) The Mayor and the City Council members or their designates will have the right to ask questions at any time.
  - (iii) After the City Manager makes his presentation, the licensee or the licensee's legal counsel, will present evidence and argument as to why the license issued hereunder should not be suspended or revoked. The Mayor and City Council members or their designates will have the right to ask questions at any time.



- (iv) After hearing all of the evidence and arguments of the parties, the Mayor and City Council will render a decision. The suspension or revocation of a massage therapy license is final unless the licensee files a petition for writ of certiorari to the Superior Court of Fulton County within 30 days of the date of the decision.

*Section 14: No proration of license fee.*

No license fees shall be prorated.

(Res. No. 01-0373, § 1, 3-21-01)

*Section 15: Repealer; exceptions.*

All resolutions providing for taxicab license fees and drivers permits in conflict with this Article are hereby repealed, provided, however, that nothing herein shall affect any resolution providing for occupation or business taxes.

*Section 16: Intent of Article; severability.*

It is the intent of this Article to regulate the operation of taxicab businesses as set forth in this Article upon all businesses operating in the unincorporated area of the county consistent with the requirements of the Constitution and laws of the State of Georgia. In the event that the regulations and/or fees imposed hereby shall not be authorized on any business and practitioner or regulation and/or fee shall be in excess of the maximum amount authorized by law, such regulation and/or fee shall be imposed only to the extent authorized by law. The invalidity of any part of this Article shall not affect the validity of the remaining portion hereof. In the event that this Article may not be enforced against any class of business mentioned herein, such inability to enforce the same shall not affect its validity against the other business specified herein.

*Section 17: Effective date.*

This Article shall become effective December 1, 2005. Annual registration and payment shall be conducted in accordance with the terms of this Article.